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In re Application of SCHELLER :  
U.S. Application No.: 10/586,018 :  
PCT Application No.: PCT/US04/38175 :  
Int. Filing Date: 15 November 2004 : DECISION  
Priority Date Claimed: 13 November 2003 :  
Attorney Docket No.: 54084-62559 :  
For: SURGICAL INSTRUMENT HANDLE WITH :  
ADJUSTABLE ACTUATOR POSITION :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 14 July 2006.

**BACKGROUND**

On 15 November 2004, applicant filed international application PCT/US04/38175, which claimed priority of an earlier United States application filed 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired on 13 May 2006.

International application PCT/US04/38175 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 July 2006, applicant filed the present petition under 37 CFR 1.137(b).

**DISCUSSION**

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### **CONCLUSION**

For the reasons above, the petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.



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